MSS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 4203 OF 2005

IN

SUIT **NO. 1937 OF 2002**

JAGDISH S. SONI .. PLAINTIFF

Vs.

KISHORE JIVRAJ BHEDA & ORS. .. DEFENDANTS

Mr. Ramesh Jain for plaintiffs
Mr. Aneeket Rane h/f Rajiv Matkar for D-1 & 2

CORAM: **SMT. RANJANA DESAI, J.**

DATE: AUGUST **10, 2007**.

P.C.

. This motion is taken out by the defendants praying that the defendants be permitted to file written statement and "No w.s." order, if any passed against the defendants be set aside.

2. On 19/11/03, the defendants were granted unconditional leave to defend the suit. Suit was transferred to the list of commercial causes and the defendants were directed to file written statement within a period of eight weeks. Written statement was, however, not filed within eight weeks. In view of the time limit imposed by this court, after expiry of the same, obviously the

office cannot take the defendants' written statement on file. Hence the defendants have filed the present notice of motion. Affidavit has been filed by the 1st defendant in support of the motion in which it is inter alia stated that the earlier advocate of the defendants did not prosecute the matter diligently. It is stated that, therefore, the defendants had to engage a new advocate.

3. In the peculiar facts and circumstances of the case, in my opinion, a case is made out for condonation of delay in filing the written statement. Hence the following order:

. "The defendants are permitted to file written statement on a condition that they pay costs quantified at Rs.8,000/- to the plaintiff. The costs be paid within a period of four weeks from today. The written statement be filed within a period of four weeks from today.

. The office shall accept the written statement on being satisfied that the costs have been paid to the plaintiff. Needless to say that the payment of costs is condition precedent for filing and acceptance of the written statement.

. Motion is disposed of in the aforestated terms"

JUDGE.